

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

DALE L. SHEETS,

Plaintiff,

vs.

Civil Action 2:03-CV-520
Judge Frost
Magistrate Judge King

THE VILLAGE OF GLOUSTER
POLICE DEPARTMENT, *et al.*,

Defendants.

REPORT AND RECOMMENDATION

On November 16, 2004, plaintiff's discovery-related motions were granted in part and denied in part and defendants were ordered "to either answer or object to the interrogatories and requests for production of documents, and to attest to the veracity of their answers if they have not done so, within ten (10) days of the date of this order." *Order* (November 16, 2004), Doc. No. 34. This matter is now before the Court on plaintiff's December 2, 2004, motion for default judgment, Doc. No. 40, in which he asserts that defendants have failed to comply with that order. Doc. No. 40.

In the reply in support of his motion, plaintiff acknowledges that defendants have, since the filing of the motion, made response to his discovery requests. However, plaintiff appears to challenge the sufficiency of their responses in certain respects.

Under these circumstances, *i.e.*, where defendants have responded to plaintiff's discovery requests, it is clear that default is not warranted. Accordingly, it is **RECOMMENDED** that plaintiff's motion for default judgment, Doc. No. 40, be **DENIED**.

If any party seeks review by the District Judge of this *Report and Recommendation*, that party may, within ten (10) days, file and serve

on all parties objections to the *Report and Recommendation*, specifically designating this *Report and Recommendation*, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1); F.R. Civ. P. 72(b). Response to objections must be filed within ten (10) days after being served with a copy thereof. F.R. Civ. P. 72(b).

The parties are specifically advised that failure to object to the *Report and Recommendation* will result in a waiver of the right to *de novo* review by the District Judge and of the right to appeal the decision of the District Court adopting the *Report and Recommendation*. See *Thomas v. Arn*, 474 U.S. 140 (1985); *Smith v. Detroit Federation of Teachers, Local 231 etc.*, 829 F.2d 1370 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

April 25, 2005

s/Norah McCann King
Norah McCann King
United States Magistrate Judge